

STATE OF INDIANA     )  
                                      )  
COUNTY OF WABASH )

IN THE WABASH CIRCUIT  
AND SUPERIOR COURTS

**NOTICE OF AMENDMENTS AND REVISIONS TO WABASH COUNTY  
LOCAL RULES OF COURT**

The Wabash Circuit and Superior Courts hereby give notice to the bar and the public of proposed amendments and revisions to the Wabash County Local Rules of Court. Included in said amendments is the Courts' case allocation plan. Said plan is new and replaces the plan that was adopted in 2006. Provisions of the proposed local rules which have been added have been italicized. Provisions of the local rules which have been deleted have been stricken through.

Comments by the bar and the public will be received until July 1, 2008. The trial courts will adopt, modify, or reject the proposed rules, including case allocation plan, by July 31, 2008. The rules and the plan will be submitted to the Indiana Supreme Court by August 1, 2008. The revisions to the rules, including the case allocation plan, shall not be effective until approved by the Supreme Court and the effective date of those changes, including the case allocation plan, shall be January 1, 2009.

Comments should be sent to: Lori Draper, Clerk of Courts, 69 West Hill Street, Wabash, Indiana 46992.

Dated this 28th day of May, 2008.

\_\_\_\_\_/S/\_\_\_\_\_  
ROBERT R. MCCALLEN III  
Judge, Wabash Circuit Court

\_\_\_\_\_/S/\_\_\_\_\_  
CHRISTOPHER M. GOFF  
Judge, Wabash Superior Court

Dist: Indiana Supreme Court, Division of State Court Administration  
Lori Draper, Wabash County Clerk  
Albert Schlitt, President, Wabash County Bar Association

**In the  
Indiana Supreme Court**

**IN THE MATTER OF                    )  
REQUEST FOR APPROVAL        )  
OF LOCAL RULES                )  
FOR COURTS OF RECORD IN    )  
WABASH COUNTY                )**

**REQUEST FOR APPROVAL OF LOCAL RULE  
RE-ADOPTING CURRENT CASELOAD  
ALLOCATION RULE**

The judges of the courts of record of Wabash County have met and reviewed the 2007 weighted caseload statistics of the courts of record, which review reveals that the difference in utilization between any two courts of record does not exceed .40 based on the 2007 Weighted Caseload Report.

Accordingly, the judges of the courts of record have decided to readopt their local rule pertaining to caseload allocation as required by Administrative Rule 1, which local rule had previously been published for public comment as required by Trial Rule 81 and which has been approved by the Supreme Court, and request the Supreme Court to approve the re-adoption of the local caseload allocation rule.

Submitted this 28<sup>th</sup> day of May 2008.

For the Courts of Record of Wabash County

\_\_\_\_\_/S/\_\_\_\_\_  
ROBERT R. MCCALLEN, III  
Judge, Wabash Circuit Court

\_\_\_\_\_/S/\_\_\_\_\_  
CHRISTOPHER M. GOFF  
Judge, Wabash Superior Court

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**LR85-AR00-1 Persons Authorized to Practice  
(formerly Wabash Circuit Court Local Rule 2)**

(A) The bars of all courts of the State of Indiana shall consist of those persons who have complied with the Supreme Court Rules for Admission to the Bar of Indiana, and are duly admitted to practice law in this State.

All attorneys so admitted shall be entitled to practice law before the Circuit and Superior Courts of Wabash County, Indiana.

(B) No person shall be permitted to practice before these Courts or before any officer thereof as an attorney, except in his or her own behalf as a party, unless he or she has been admitted to practice law in the State of Indiana.

(C) Foreign attorneys shall be allowed to appear in a limited manner as provided by the Indiana Trial Rules.

**LR85-AR00-2      Withdrawal of Original Records and Papers  
(formerly Wabash Circuit Court Local Rule 14)**

No person shall withdraw any original pleading, paper, record, model, or exhibit from the custody of the clerk or other officer of the Court except (1) upon order of the Court, and (2) upon leaving a proper receipt with the clerk or officer.

**LR85-AR00-3      Legal Publication(s)/Resource(s)**

Any publication(s)/legal resource(s) in the Judicial Center are the property of the Courts. No person shall remove any publication(s)/legal resource(s) from the Judicial Center without first contacting the Court Bailiff and notifying the Bailiff that the publication(s)/legal resource(s) is being borrowed. Any publication(s)/legal resource(s) so removed shall be retained no longer than three (3) days, excluding weekends and holidays. Persons holding publication(s)/legal resource(s) longer than three (3) days will be fined fifty (50) cents per day that the publication(s)/legal resource(s) book is overdue, and may be subject to suspension of removal privileges.

The Courts have made arrangements for the establishment of electronic research facilities in the Wabash Carnegie Library and the North Manchester Public Library. Counsel and the general public shall be required to abide by any rules adopted by the respective libraries, including any required fees, in the utilization of such of those facilities.

**LR85-AR15-4      Court Reporter Transcript and Preparation**  
**(formerly General Order No. -1, on file with and approved by Office of State Court Administration)**

**Section One. Definitions.** The following definitions shall apply under this local rule:

- (1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court-reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing, and transcribing electronic data.
- (3) Workspace means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript that results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.
- (7) Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.
- (9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Wabash County.
- (11) County indigent transcript means a transcript that is paid for from county funds and is for the use of or on behalf of a litigant who has been declared indigent by a court.
- (12) State indigent transcript means a transcript that is paid for from state funds and is for the use of or on behalf of a litigant who has been declared indigent by a court.
- (13) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

**Section Two. Salaries and Per Page Fees.**

- (1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court

during any regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement specifying the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be \$4.25 per page; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts. Further, if the Court Reporter uses county equipment, he/she shall reduce the per page fee charged to the county in accordance with the schedule set out in paragraph 6 hereof.

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be \$4.50 per page. Further, if the Court Reporter uses county equipment, he/she shall pay or arrange for payment to the county of the fee set out in the schedule in paragraph 6 hereof.

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be \$4.75 per page. Further, if the Court Reporter uses county equipment, he/she shall pay or arrange for payment to the county of the fee set out in the schedule in paragraph 6 hereof.

(5) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(6)

	<b>County Reduction</b>	<b>State Fee</b>	<b>Private Fee</b>
<b>Full Use of Equipment</b>	Ten Cents (\$.10) per page	Ten Cents (\$.10) per page	Ten Cents (\$.10) per page
<b>Partial use of Equipment (Home transcription)</b>	Five Cents (\$.05) per page	Five Cents (\$.05) per page	Five Cents (\$.05) per page

### **Section Three. Private Practice.**

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

(a) The reasonable market rate for the use of equipment, workspace and supplies;

- (b) The method by which records are to be kept for the use of equipment, work space and supplies; and
  - (c) The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.
- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

**LR85-AR81-5      Exceptions to Schedule of Adoption/Revision of Local Rules**

The following exceptions may be made to adoption of local rules pursuant to Indiana Trial Rule 81

- a. If a court finds “good cause to deviate from the schedule established by the Division of State Court Administration”;
- b. In that case, “the court may adopt or amend local rules at other times and without notice and opportunity for comment”;
- c. But the rule shall not take effect unless it has first been posted for thirty (30) days in the county clerk’s office and on the county clerk’s website (if any), and on the Indiana Judicial website.

**LR85-AR81-6      Local Rules subject to Court Orders  
(formerly Wabash Circuit Court Local Rule 1)**

All local rules shall be subject to change by specific order(s). To the extent an order or term of an order is in conflict with a local rule or rules, the order or term of order shall prevail.

**LR85-TR00-1      Supremacy of Indiana Rules**

Any conflict between these local rules and the Indiana Trial Rules or statutes of the State of Indiana shall be resolved in favor of the Indiana Trial Rules or applicable statutes.

**LR85-TR3.1-2      Requirements to Assure Recognition of Counsel  
(formerly Wabash Circuit Court Local Rule 3)**

(A) Every pleading, motion or paper filed with the Court shall clearly identify the name, address, and telephone number of the attorney representing the party filing the pleading. The individual attorney responsible for the prosecution or defense of the case shall make certain that his or her name appears on the CCS of the cause. Attorneys preparing documents for filing shall have as a part of the documents the first twelve digits of the uniform case numbering system as adopted by the Supreme Court of the State of Indiana.

(B) At the time of filing the attorney shall also file his or her appearance for the party he or she intends to represent. Thereafter any attorney entering his or her appearance after the original filing of the cause shall first file his or her formal written appearance for the party he or she intends to represent.

(C) All written orders submitted to the Court for signature shall be single spaced, and shall bear in the lower left hand corner of the final page an indication of the attorney submitting such order and all other attorneys of record (or Pro Se litigants), in order that signed copies may be distributed to all parties of record and/or their attorney(s).

(D) Unless a pleading, motion or paper is personally verified by another person, any pleading, motion or paper which is not signed by at least one attorney of record as required by Indiana Trial Rule 11, or which is found not to be in conformity with the above rules shall not be accepted for filing by the Clerk. This requirement shall not apply to papers personally verified by a party. If such pleadings or orders are inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record unless substantial prejudice would be caused to a party by that striking.

**LR85-TR3.1-3      Withdrawal of Appearance  
(formerly Wabash Circuit Court Local Rule 4)**

(A) Counsel desiring to withdraw their appearance in any cause other than criminal shall file a formal request to do so. Included as a part of said request shall be a brief statement of the reasons for such request, a statement of efforts made to contact the client affected thereby, and/or evidence of written notice to the client of the request to withdraw. No request to withdraw shall be granted where the effect of the withdrawal would be to deprive the Court of jurisdiction over the party.

(B) A withdrawal of appearance accompanied by the appearance of other counsel shall constitute compliance with the requirements of paragraph (A) of this Rule.

(C) Counsel wishing to withdraw their appearance for a criminal defendant shall file a formal request to do so. Included as a part of the request shall be a brief statement of the reasons for the request, whether the request is made timely under statute, and if not timely, the statutory basis upon which the withdrawal is requested. Counsel for a criminal defendant may not be permitted to withdraw after the omnibus date solely for the reason that the defendant has not paid his fees.

(D) In "Family Law Matters" defined as any proceeding involving dissolution of marriage, child support, custody or paternity where counsel has been retained or appointed, at the conclusion of such Family Law Matter where the pending issue(s) have been resolved by the entry of a complete and final order, the Court and Counsel shall presume that an attorney's appearance has been withdrawn from that case after the expiration of thirty days from the date of



entry of the final order. No formal Motion to Withdraw shall be required to be filed unless the withdrawal is sought during the course of the pending proceedings; or, if counsel wants their name removed from the Chronological Case Summary for Purposes of receiving notice.

- i) Parties serving an opposing party in any Family Law Matter that has been so concluded shall be required to serve the opposing party and may not effect service by serving counsel whose name remains on the Chronological Case Summary.

**LR85-TR00-4      Form and Style of Papers and Manner of Submission  
(formerly Wabash Circuit Court Local Rule 5)**

(A) All papers submitted to the Clerk or judge for filing shall be flat and unfolded, unless received by mail. Typewritten pages shall have no covers or backs and shall be fastened together at the top and at no other place.

(B) All pleadings shall be file stamped before being submitted for notation on the CCS, unless filed by mail. After file stamping the documents, the attorney shall retain his copy or copies for his own use or for service upon opposing parties.

(C) Filings not requiring action by the Court may be submitted to the Reporter for entry by proposed docket entries written on minute sheets provided for that purpose. Filings requiring action by the Court should be submitted to the Court in person, or by submitting a proposed docket sheet entry on minute sheets.

(D) Agreements arrived at by the parties, whether before or at the time of hearing, shall be required to be submitted in written form by the parties with a proposed order approving such agreements.

(E) Motions for Change of Venue from the County or the Judge under the Indiana Trial Rules shall state within the motion whether they are timely filed, and if not, shall set out the grounds and be verified as required by rule.

(F) Any pleading which is found not to be in conformity with the above rules shall not be accepted for filing by the Clerk. If such pleadings or orders are inadvertently accepted for filing, upon discovery of the error or omission, such pleading shall be stricken from the record, unless substantial prejudice would be caused to a party by that striking.

**LR85-TR73-5      Hearing of Motions  
(formerly Wabash Circuit Court Local Rule 6)**

(A) The filing of any motion, petition or request with the Clerk of the Court or with the Court which requires oral argument or ruling by the Court shall be brought to the attention of the judge by the party filing same within three days of such filing. In the event that a case is venued to the Court as a

result of a motion for change of venue filed in another county, a party who requests a hearing or ruling on any matter filed while the case was in the other county shall first bring such matter to the attention of the judge by written request for hearing or ruling. The time period for calculation of the time limits imposed under Indiana Trial Rule 53.1 shall begin to run on the date of filing of such a request for hearing or ruling.

(B) The time of hearing motions shall be fixed by the Court. Dates of hearing shall not be specified in the notice of hearing of the motion unless prior authorization shall be obtained from the judge, the reporter or bailiff. Any party may request oral argument upon a motion, but the granting of oral argument is wholly discretionary with the Court.

(C) In appropriate cases, upon request of counsel or upon order of the Court, hearings may be held by teleconference with all attorneys or parties of record.

**LR85-TR53.5-6 Continuances  
(formerly Wabash Circuit Court Local Rule 7)**

(A) Motions for continuance, unless made during the hearing of the cause, shall be in writing and verified. Said motions shall contain as a part thereof a statement that opposing counsel has been previously notified of the request, and an indication of the acquiescence or objection of opposing counsel to said continuance. Further, said motions shall contain an estimate of the time required for the hearing of the cause.

(B) The Court, in its discretion, may require any written motion for continuance to be signed by the party requesting same.

(C) The Court may, in its discretion, hold a hearing on the motion for continuance.

**LR85-TR16-7 Pre-trial Conferences  
(formerly Wabash Circuit Court Local Rule 8)**

(A) There shall be a pretrial conference in every case, civil and criminal, with the exception of dissolution of marriage and attendant actions, paternity, mental health and juvenile actions. Pretrial conferences in actions excepted by this rule may be held only upon request or upon the Courts own motion.

(B) In all cases, discovery should be completed on or before the date for the pretrial conference, unless otherwise ordered by the Court. For good cause shown, additional discovery may be ordered at any time prior to the date of trial.

(C) Parties shall be prepared at the time of the pretrial conference to discuss the status of any pending motions, to discuss whether further motions shall be filed with the Court and their subject matter, to enter into any stipulations regarding facts or exhibits, to indicate to the Court any unusual

aspects of the case or any unusual instructions anticipated to be requested, and to discuss the possibility of settlement of the issues.

(D) In all civil cases to be tried to a jury, Counsel shall prepare and file with the Court a proposed final pretrial order to be submitted to the Court at the time of the final pretrial conference. Counsel shall further file at that time a proposed preliminary instruction on the issues to be decided at trial.

(E) In all cases to be tried to a jury, Counsel for the respective parties or the State of Indiana shall submit proposed final instructions to the Court no later than three days prior to trial. Such proposed instructions shall be submitted under separate cover, in duplicate, with one set bearing the number of the tendered instruction and any supporting authority, and the other without any markings indicating the party submitting the instructions, with the exception of the attached cover sheet.

**LR85-TR40-8      Trial Assignment**  
**(formerly Wabash Circuit Court Local Rule 9)**

(A) Matters shall be set for trial as first, second, third, fourth or fifth settings. Counsel shall be prepared for trial on the date so set, regardless of the nature of the setting. The Court may set additional settings as the Court may determine appropriate.

(B) In all civil cases, matters shall be set for trial and pretrial conference upon the Court's own motion or upon request therefore by Counsel or a party to the action. Parties requesting a trial setting shall indicate in the request whether the trial is to the Court or a jury, and the anticipated length of trial.

Counsel for the Plaintiff shall inform the Court no later than ten (10) days before trial as to whether settlement of the issues has been achieved. Second, Third, Fourth and Fifth (and further) settings shall be required to stand trial on the date so set unless notified seven (7) days in advance of trial that the primary setting will be tried.

[C] In all criminal cases, matters shall be set for trial and pretrial conference at the conclusion of the initial hearing in the cause.

[D] In all criminal cases, Counsel for the State and Defense shall confirm with the Court's Bailiff, not less than seven (7) days prior to the trial, whether the trial will proceed. Failure to confirm may result in loss of the trial date.

**LR85-TR33-9      Interrogatories**  
**(formerly Wabash Circuit Court Local Rule 10)**

(A) No duplicated forms containing interrogatories shall be served upon a party unless all interrogatories or special forms are consecutively numbered and applicable to the particular cause in which they are sought.

(B) The number of interrogatories which may be served upon an opposing party shall be limited so as to require the opposing party to make no more than one hundred (100) individual answers. Each interrogatory shall be numbered individually and consecutively. To the extent a party submits interrogatories exceeding the number allowed and without obtaining prior Court approval therefore, the responding party shall only be obligated to answer the first one hundred (100) individual answers. Waiver of this limitation will be granted by the Court in cases in which the limitation would work a manifest injustice or would be impractical due to the complexity of the case.

**LR85-TR79-10      Trial Rule 79 (H) Appointment of Special Judges  
(formerly Wabash Circuit Court Local Rule 16, on file with and approved by  
Office of State Court Administration)**

**Purpose of Rule**

This rule is adopted to comply with the requirements of Trial Rule 79 (H) of the Indiana Rules of Trial Procedure. It is intended to provide a means of selection of special judges insuring the effective use of all judicial resources within Administrative District 5, and includes each person eligible for appointment under Section (J) of Trial Rule 79.

**Central Office Established**

There is established a Central Office for the keeping of records of appointment and selection of special judges for this district. The Central Office for this District shall be the Wabash Circuit Court. The Administrator of the Central Office shall be appointed by the Judge of the Wabash Circuit Court.

This Court shall hereafter refer to the Central Office of this District whenever selection of a special judge is required under this rule. The Court shall accept from the Central Administrator the name of the individual to then be appointed as special judge.

The person serving as Administrator of the Central Office shall have the following responsibilities:

1. To maintain a list of persons qualified to serve as special judge under Section (J) of Trial Rule 79.
2. To take referrals from the several courts of this District, requesting appointment of a special judge.

3. To alternately and on a rotating basis, appoint qualified judges from the list maintained for that purpose.
4. To notify the referring Court of the individual to be appointed under this Rule.

### **Current Rotation Schedule**

The following shall be the rotation schedule initially used by the Central Administration.

- 1) The judge of Cass Superior 1 Court, ~~currently the Honorable Tom Perrone~~
- 2) The Judge of the Wabash Circuit Court, ~~currently the Honorable Robert R. McCallen III~~
- 3) The judge of Howard Superior 3 Court, ~~currently the Honorable Douglas Tate~~
- 4) The judge of the Fulton Superior Court, ~~currently the Honorable Wayne Steele~~
- 5) The judge of Howard Superior 2 Court, ~~currently the Honorable Stephen Jessup~~
- 6) The judge of the Fulton Circuit Court, ~~currently the Honorable Douglas Morton~~
- 7) The judge of the Howard Circuit Court, ~~currently the Honorable Lynn Murray~~
- 8) The judge of the Tipton Circuit Court, ~~currently the Honorable Thomas Lett~~
- 9) The judge of the Miami Superior Court, ~~currently the Honorable Dan Banina~~
- 10) The judge of Howard Superior Court 4, ~~currently the Honorable William Menges, Jr.~~
- 11) The judge of the Cass Circuit Court, ~~currently the Honorable Julian Ridlen~~
- 12) The judge of the Wabash Superior Court, ~~currently the Honorable Christopher Goff~~
- 13) The judge of the Miami Circuit Court, ~~currently the Honorable Rosemary Higgins Burke~~
- 14) The judge of Cass Superior 2 Court, ~~currently the Honorable Rick Maughmer~~

### **Administration Fee**

Each of the Courts participating under this Rule shall pay each year the sum of Fifty Dollars (\$50) to the Central Administrator, payable directly to the Administrator by the 15<sup>th</sup> of September of each year.

### **Certification to Supreme Court**

In cases in which no judge is eligible to serve as special judge in a particular case, or where the circumstances of the case require it, the Court shall certify

those circumstances to the Supreme Court, and that Court shall make appointment.

**LR85-FL00-1            Allocation of Dissolution Proceedings between Circuit and Superior Courts**

All original dissolution proceedings shall be filed on an alternate basis between the Wabash Circuit and Wabash Superior Courts. The first such filing annually shall be filed in the Wabash Circuit Court and then to the Wabash Superior Court and alternating thereafter with each case filed.

**LR85-FL00-2            Dissolution Proceedings  
(formerly Wabash Circuit Court Local Rule 11)**

(A) Not less than one (1) business day before the time of final hearing on any contested dissolution, the parties to the dissolution shall submit to the Court an affidavit, under penalties of perjury, setting forth all of the property owned by the parties, their estimate of the value of the property when the dissolution was filed and their proposed distribution. As a part of the affidavit, the parties shall also list all outstanding debts of the parties, the amounts owed as of the date of filing and their proposed distribution. Each affidavit shall include the following:

1. A general statement of household furnishings, furniture, appliances and equipment, unless the value of an individual piece exceeds \$100.00. Such a piece should then be listed as a separate item.
2. Vehicles of any kind
3. Securities - stocks, bonds etc.
4. Cash and Deposit Accounts of any kind
5. Life Insurance policies which have any cash surrender value
6. Profit sharing or retirement accounts and a statement of whether all or any is vested
7. Real estate
8. Business interest, including name, type, value and indebtedness.
9. Any other assets not included in the foregoing.

(B) In addition to preparing an Affidavit as described above, the parties shall further:

- 1) Exchange with each other such Affidavits not less than seven (7) days before trial;
- 2) Each Affidavit shall list the property and debts of the parties in the same order and using the same numbers. To the extent respective Affidavits include property or debts not included by the other party they shall be separately numbered. Each party shall further indicate on their Affidavit which assets and debts they are in agreement or disagreement on (whichever is easier) as to values, which may be accomplished by highlighting such agreed or disagreed values or by such other method to reflect areas of agreement or disagreement as the parties shall determine will aid the Court; and,
- 3) Submit to the Court on the date of trial a copy of their Affidavit in electronic format via e-mail, compact disc or diskette and in a format compatible with the Courts word processing software.

(C) Failure to comply with this rule may be deemed an admission by the noncomplying party as to the accuracy of the other parties Affidavit.

**LR85-PR00-1          Probate Proceedings**  
**(formerly Wabash Circuit Court Local Rule 12)**

(A) In every estate the personal representative, before entering upon his or her duties, shall file a bond not less than the value of the personal property to be administered, except as provided in the following circumstances:

1. Where, under the terms of the Will, the testator indicates that the bond may be dispensed with.
2. Where the personal representative is an heir or legatee of the estate, the bond may be reduced by the personal representative's share.
3. Where the heirs have filed a written request that the personal representative serve without bond.
4. Where the personal representative is a banking institution.

(B) Every personal representative shall close the estate as promptly as possible. Unless for good cause shown, the time for filing a final account in the estate shall not exceed one (1) year from the appointment of a personal representative. A personal representative who does not timely file a closing statement as required shall file with the Court a statement indicating why the estate has not been closed. This statement will be filed at the time the closing statement is due, if the closing statement is not timely filed. Good cause for not closing an estate as so directed shall be shown by filing an intermediate accounting no later than thirty (30) days after the expiration of one year. The accounting shall propose partial distribution to the extent that it can be done without prejudice to distributees and claimants.

Failure to comply with this rule shall be grounds for the removal of the personal representative and forfeiture of personal representatives and attorneys fees.

- (C) Damages payable by reason of wrongful death claims or suits shall be distributed in accordance with the applicable statute, and are not distributable in accordance with any other instrument.

**LR85-JR00-1      Jury Selection**  
**(formerly Wabash Circuit Court Local Rule 13)**

The passing of a juror twice, after he/she has been examined, tendered to, and accepted by the other party will be deemed to be a waiver of the right to challenge further, unless new conditions arise calling for further examination of the juror. Where both parties strike the same juror, the strike shall be counted against the State/ Plaintiff in the first round and the Defendant in the second round and shall alternate thereafter. The Judge of each respective Court may deviate from this rule but only upon advising the parties of the deviation prior to the commencement of jury selection and only upon reflecting the nature of the deviation on the Chronological Case Summary.

**LR85-CR2.2-1      Selection of Special Judge (Criminal Cases)**  
**(formerly General Order No. – 1995, on file with and approved by Office of State Court Administration)**

The Courts of Wabash County do hereby order, in accord with Criminal Rules 2.2 and 13, that the following local rules shall be observed in the selection of special judges for and the filing and assignment of criminal cases in the Superior and Circuit Courts of the County:

**LR85-CR2.2-1(A)**  
**Allocation of Criminal Proceedings Between Circuit and Superior Courts**

*I – Case Allocation*

A. Felony Cases

1. All cases wherein the most serious charge filed is a Class A, Class B, or Class C felony or murder shall be filed in the Wabash Circuit Court.
2. All cases wherein the most serious charge is a Class D felony shall be assigned on an alternating basis, first to the Wabash Superior Court and then to the Wabash Circuit Court and alternating thereafter with each case filed, with the exception of those cases listed in Section Three below.



3. All cases charged as a Class D felony and which involve the operation of a motor vehicle or watercraft shall be filed in the Wabash Superior Court.

B. Misdemeanor Cases

1. All cases wherein the most serious charge is a Class A, Class B, or Class C misdemeanor shall be filed in the Wabash Superior Court.

C. Infractions

1. All cases wherein the most serious charge is an infraction shall be filed in the Wabash Superior Court.

II - Criminal Case Transfers

- A. The judges of the Wabash Circuit or Superior Courts may transfer and reassign any criminal cause from their respective Courts upon a finding by the judge seeking transfer of just cause to do so.
- B. The Judge of the Court to which transfer is sought shall determine whether the Court has jurisdiction to hear the cause, and may accept or reject such transfer.
- C. An appropriate order shall be prepared and entered in the Record of Judgments and Orders regarding the transfer and acceptance of transfer.

III - Dismissal and Refiling

When the State of Indiana through its Prosecuting Attorney or Deputy Prosecuting Attorneys dismisses a criminal cause and later chooses to refile the cause, or to refile other charges related to the incident which is the basis for the charge, the case shall be assigned to the court from which the original dismissal was sought.

IV - Selection of Special Judges

In any criminal cause in which a special judge must be appointed, the Clerk of the Court shall select the Special Judge in accordance with the following procedures:

- 1. If the Special Judge is required to be appointed on a case in the Wabash Circuit Court, the Clerk shall appoint the Special Judge from the following list, selecting the first judge for the first case requiring assignment after adoption of these rules and selecting each judge thereafter on a rotating basis and in order of their placement on this list:

The Judge of the Miami Circuit Court  
The Judge of the Grant Circuit Court  
The Judge of the Huntington Circuit Court  
The Judge of the Kosciusko Circuit Court

2. If the Special Judge is required to be appointed on a case in the Wabash Superior Court, the Clerk shall appoint the Special Judge from the following list, selecting the first judge for the first case requiring assignment after adoption of these rules and selecting each judge thereafter on a rotating basis and in order of their placement on this list:

The Judge of the Kosciusko Superior Court  
The Judge of the Huntington Superior Court  
The Judge of the Grant Superior III Court  
The Judge of the Miami Superior Court

3. Pursuant to I.C. 33-2.1-7-8, the Supreme Court temporarily assigns and transfers the judges of the several courts listed in this rule to the Courts in which their appointment is made, for all purposes and procedures required of them to preside over the cause to which they were assigned, including but not limited to preliminary matters, trial, sentencing, appeal and post-conviction remedies. This assignment shall be made by the adoption of these local rules by the Supreme Court.

4. In the event that no judge is available under these rules for assignment, or the trial court has concluded that special circumstances exist requiring that appointment be made by the Supreme Court, the trial court may certify the selection of the special judge to the Supreme Court.

**LR85-MI00-1      *Wabash County Drug Court Program Fee***

Those persons directed to participate in the Wabash County ~~Alcohol~~/Drug Court Program shall pay a ~~\$300~~ \$500 program fee, as well as any additional costs associated with recommended treatment.

**LR85-MI00-2      *Wabash County Alcohol and Drug Court Program Fee***

Those persons directed to participate in the Wabash County Alcohol/Drug Court Program shall pay the following fees, as well as any additional costs associated with recommended treatment: assessment, case management, and education, \$300; transfer, \$50; urine screens, \$15; and education workbook, ~~\$30~~ \$15.00.

**LR85-MI00-3      *Local Rule Pertaining to Garnishee Defendants Who are Employers of Judgment Defendants***

*Notwithstanding the provisions of I.C. 34-25-3-3, a garnishee defendant who is an employer of a judgment defendant shall not be required to make withholdings from the*

*earnings of the judgment defendant until it receives a valid order to make garnishment withholdings pursuant to the provisions of Trial Rule 69(e) of the Indiana Rules of Trial Procedure and/or I.C. 24-4.5-5-103-108.*